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EXAMINER	
VENKAT, JYOTHSNA A	

ART UNIT	PAPER NUMBER
1619	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/733,900	PINZON ET AL.	
	Examiner	Art Unit	
	JYOTHSNA A. VENKAT	1619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 October 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *362-368* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *362-368* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of amendment, remarks, and IDS filed on 10/1/09. Claims 355-361 are cancelled as per applicants' amendment dated 10/1/09. Receipt is also acknowledged of Exhibit 1- Information Relevant to the Use and Availability of UNICLEAR 80/100; Exhibit 2- International Cosmetic ingredient Dictionary and Handbook ("CTFA") 9th ed., p. 1654 (2002).

Status of claims

Claims 1-361 are cancelled. Claims 362-368 are pending in the application.

In view of the amendment, the rejection of claims under 112, second paragraph is here by withdrawn.

The following rejections are maintained.

Claim Rejections - 35 USC § 112

Claims 362-368 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. **This is new matter rejection**.

There is no support in the specification for claims drawn to the species belonging to structuring polymer, which is "**ethylenediamine/stearyl dimer tallate copolymer".**

Specification at page 12, ll 14-25 teaches:

"*Non-limiting examples of an at least one polyamide polymer which may be used in the composition according to the present invention include the commercial products*

sold by Arizona Chemical under the names Uniclear 80 and Uniclear 100. These are sold, respectively, in the form of an 80% (in terms of active material) gel in a mineral oil and a 100% (in terms of active material) gel. These polymers have a softening point ranging from 88°C to 94 °C, and may be mixtures of copolymers derived from monomers of (i) C36 diacids and (ii) ethylenediamine, and have a weight-average molecular mass of about 6000. Terminal ester groups result from esterification of the remaining acid end groups with at least one alcohol chosen from cetyl alcohol and stearyl alcohol. A mixture of cetyl and stearyl alcohols is sometimes called cetylstearyl alcohol".

The specification teaches the species, which can be formed from (i) C36 diacids and ethylenediamine and the terminal ester groups result from esterification of the remaining acid end groups can be with cetyl alcohol **or** the species can be formed from (ii) C36 diacids and ethylenediamine and the terminal ester groups result from esterification of the remaining acid end groups can be with stearyl alcohol **or** the species can be formed from (ii) C36 diacids and ethylenediamine and the terminal ester groups result from esterification of the remaining acid end groups can be with a mixture of cetyl and stearyl alcohols also known as cetylstearyl alcohol.

There is no support in the specification for species claimed in claims 355-361 since the species is a copolymer of ethylene diamine and tall oil dimer acid monomers end blocked with stearyl alcohol. Tall oil contains fatty acids mainly of palmitic acid, oleic acid and linoleic acid. See below for the definition of Tall oil.

From Wikipedia, the free encyclopedia

Tall oil, also called **liquid resin** or **tallol**, is a viscous yellow-black odorous liquid obtained as a byproduct of the Kraft process of wood pulp manufacture. The name originated as anglicization of Swedish "tallolja" ("pine oil").

Crude tall oil contains rosins, unsaponifiable sterols (5-10%), resin acids (mainly abietic acid and its isomers), fatty acids (mainly palmitic acid, oleic acid and linoleic acid), fatty alcohols, some sterols, and other alkyl hydrocarbon derivates. By fractional distillation **tall oil rosin** is obtained, with rosin content reduced to 10-35%. By further reduction of the rosin content to 1-10%, **tall oil fatty acid** (**TOFA**) can be obtained, which is cheap, consists mostly of oleic acid, and is a source of volatile fatty acids. The rosin finds use as a component of adhesives, rubbers, and inks, and as an emulsifier. The pitch is used as a binder in cement, an adhesive, and an emulsifier for asphalt.

TOFA is a low-cost alternative to tallow fatty acids for production of soaps and lubricants. When esterified with pentaerythritol, it is used as a compound of adhesives and oil-based varnishes.

Tall oil is also used in oil drills as a component of drilling fluids.

Thus tall oil acid is not a C36 dicarboxylic acid, therefore there is no support for the claimed species.

In response to Rule 105 request applicants submit as Exhibit 1, page 606 of the International Cosmetic Ingredient Dictionary and Handbook ("CTFA"), which recites that ethylenediamine/stearyl dimer dilinoleate copolymer is a copolymer of ethylenediamine and stearyl dimer dilinoleate monomers and further reciting that a trade name for ethylenediamine/stearyl dimer dilinoleate copolymer is Uniclear® and the same page also recites that ethylenediamine/stearyl dimer tallate copolymer is a copolymer of ethylenediamine and tall oil dimer acid monomers, end blocked with stearyl alcohol and further recites that a trade name for ethylenediamine/stearyl dimer tallate copolymer is Uniclear®. The cosmetic dictionary submitted to show support for the claimed specie is after the filing date of the instant application.

Applicants also submit as exhibit 2, a redacted version of confidential proprietary documents from the Assignee Company. See below

Réf. Commerciale	Fabricant / Distributeur
UNICLEAR 100 VG	REDACTED

(DGT) UNICLEAR 100 VG

Nom chimique R.A.D : CONDENSAT DIACIDE EN C36 HYDROGENE/ETHYLENE DIAMINE, ESTERIFIE PAR ALCOOL STEARYLIQUE (PM: ENVIRON 4000) STABILISE (ANOX 20)

Nom INCI USA : ETHYLENEDIAMINE/STEARYL DIMER DILINOLEATE COPOLYMER

The redacted document shows that Uniclear®100VG is also known as ethylenediamine stearyl dimer dilinoleate copolymer and this species is described since linoleic acid is 18 carboxylic diacid and the dimer acid is C36 carboxylic acid. This species is claimed in claims 362-368.

However, the first page of the redacted document does not state that Uniclear®100 V is ethylenediamine/tall oil dimer acid/stearyl alcohol copolymer (emphasis added), which is the species claimed in claims 355-361. Compare page 2 to page1.

REDACTED

Nom Chimique : CONDENSAT DIACIDE EN C36 HYDROGENE/ETHYLENE DIAMINE, ESTERIFIEPAR ALCOOL STEARYLIQUE

Nom CTFA :

REDACTED

Références commerciales

Références commerciales	Fournisseurs
UNICLEAR 100 V	REDACTED

REDACTED

Numéro de CAS	Nom CTFA substance	Nom européen substance	% sub.	Rôle	Type	Color index	% etiq.	N° einecs
REDACTED	ETHYLENEDIAMINE/TALL OIL DIMER ACID/STEARYL ALCOHOL COPOLYMER			REDACTED				
	REDACTED							

Search on Arizona Chemical Company website showed the following:

Air Care / Personal Care Gellants

Product	Softening Point, C, Ring & Ball	Viscosity cps/mPa-s @ 160 C	Acid No.	Color, Gardner	Amine No.	Flash Point, F
Uniclear® 100	88-100	90-140	12	1-2	<1.0	520
Uniclear® 100LM	75-80	90-140	12	1-2	<1.0	520
Uniclear® 100VG*	88-98	100-160	12	1-3	<1.0	520
Sylvaclear™ C75V*	70-80	90-160	25	1-3	<1.0	508

* Vegetable dimer based resin

The softening point and viscosity are different for Uniclear ® 100 and Uniclear ® 100 VG. Search on Arizona Chemical Company website did not show softening point and viscosity for Uniclear ® 100 V described at top portion of page 1 of the redacted copy. There is no Uniclear ® 80 on the website.

Response to Arguments

Applicant's arguments filed 10/1/09 have been fully considered but they are not persuasive.

Applicants' argue:

> *"In addition, Applicants submit that the evidence already of record, for example the Cosmetic Toiletry and Fragrance Association's December 14, 1999, letter and Dr. Lochhead's Expert Report submitted with the Amendment and Reply Office Action ("Amendment") filed February 5, 2009, establishes that the ethylenediamine/stearyl dimer tallate copolymer was known by those of ordinary skill as Uniclear® at the time of filing of the present application.*

On pages 8-9 of the Office Action, the Examiner recognizes that paragraph 14 of Dr. Lochhead's Expert Report "suggests that as of December 1999 that the trade name UNICLEAR was associated with the tallate copolymer." However, the Examiner asserts that "this does not establish that the same was true as of applicant's filing date." Office Action at p. 6. Applicants respectfully disagree. If the trade name Uniclear was associated with the tallate copolymer as of December 1999, then the tallate copolymer was known by those of ordinary skill as Uniclear® at the time of filing of the present application, December 12, 2000. Moreover, a trademarked product may cover a range of products containing the same copolymer family, but having different concentrations, in different solvents or with different additives, leading to different physicochemical properties. As mentioned in the specification, Uniclear 80 and Uniclear 100 have different formulations. For example, Uniclear 80 and Uniclear 100 contain different concentrations of active material. Such difference in concentrations may explain the different softening points discussed by the Examiner at page 7 of the Office Action. In summary, the specification describes the copolymers known as Uniclear® and demonstrates that Uniclear® is the trade name for ethylenediamine/stearyl dimer tallate copolymer. Moreover, the CFTA's December 14, 1999, letter and Dr. Lochhead's Expert Report, which relies upon the CFTA's letter, submitted with the Amendment filed on February

5, 2009, is further evidence that the ethylenediamine/stearyl dimer tallate copolymer was known by those of ordinary skill as Uniclear® at the time of filing of the present application. Accordingly, Applicants submit that claims 362-368 (which include the subject matter of claims 355-361) are fully supported by the specification as filed ".

In response to the above argument, expert report which relies upon CTFA's letter may assert that the trade name UNICLEAR® refers to a tallate copolymer. However, the evidence from the redacted documents submitted by applicants' clearly indicates that UNICLEAR 100V and UNICLEAR 100VG are different polymers and one cannot conclude that any composition whose name includes UNICLEAR® necessarily includes the same polymer. Description at page 15, ll 3-13 does not readily conveys ethylenediamine/stearyl dimer tallate copolymer recited in independent claims. A further complication is that the CTFA from 2002 clear sets forth that the UNICLEAR® is associated with both the dilinoleate species and the tallate species. The redacted document shows that Uniclear®100VG is also known as ethylenediamine stearyl dimer dilinoleate copolymer and this species is described since linoleic acid is 18 carboxylic diacid and the dimer acid is C36 carboxylic acid. There is no description in the specification for tallow oil.

A further complication is, example in the related application 10/747,412 assigned to L'Oreal describes Uniclear 100VG as polyamide resin, where as in copending application 10/494, 864 Uniclear 100VG is described as polycondensate of C36 dimer acid and of ethylene diamine esterified with C16/C18 alcohol. C16/C18 alcohol is not stearyl alcohol, instead it is a mixture of C16 alcohol and stearyl alcohol.

The claimed species ethylenediamine/stearyl dimer tallate copolymer is formed from stearyl alcohol._Applicants' attention is also drawn to related application (10/911,671) assigned to same Assignee (L'Oreal), which describes **Uniclear VG** at page 50 as **ethylenediamine/stearyl dimer dilinoleate copolymer.**

Applicants' attention is also drawn to 11/585,225 assigned same assignee L'Oreal. In that application a declaration was submitted in order to overcome the written description rejection, and the declarant states that **Uniclear 100VG also known as Uniclear 100v is ethylenediamine/stearyl dimer tallate copolymer.**

What is Uniclear 100 and what is exactly Uniclear 100VG? There is discrepancy in all the related applications assigned to L'Oreal with respect to the above trade names.

_Additionally applicants' submit as Exhibit 1information relevant to the use of Uniclear 80/100 and this shows that Uniclear is formed by the condensation of EMPOL 1011, which is a hydrogenated dimerized fatty acid completely derived form vegetable feed stock, ethylene diamine and C18 fatty alcohol (emphasis added). Thus form the above exhibit Uniclear 100 is not formed form linoleic acid but some other fatty acid derived from

In view of the facts explained above and also there is no explicit description for the species or explicit description that describes the species with the corresponding trade name, therefore lack of written description for claimed species "ethylenediamine/stearyl dimer tallate copolymer" is deemed proper.

Claim Rejections - 35 USC § 103

Claims 362-368 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U. S. Patents 5,783,657 ('657) and 6,423,324 ('324).

Patent '657 teaches polymer having gel consistency and these gels are useful in personal care products where in some self-supporting consistency is desired. See the abstract and see cols. 3-4 and see col.3, lines 31-36 where patent teaches that these polymers are useful in cosmetic art. Patent at col.4, ll 20-25 teaches ester –terminated polyamide of formula I (ETPA).

The species claimed in the instant application belong to the genus of this polymer (formula I). The species are formed from ethylenediamine, stearyl alcohol and tall oil fatty acid or ethylenediamine, stearyl alcohol and linoleic acid. Patent at col.5, ll 1-20 describes the definition of R1 and the carbon range of 16-22 is the preferred range. Patent at col.5, ll 23-33 teaches the definition of R2 and at col.5, ll 39-40 teaches that typical unsaturated acids are linoleic acids and at col.5, ll 44-46 teaches that tall oil fatty acid is a preferred source of long-chain fatty acids. Patent at col.7, ll 24-35 teaches the preparation of ETPA . The starting materials for the ETPA are alcohols, amines and carboxylic acids are preferred staring materials (col.7, ll 24-25). Patent at paragraph bridging col.s 7-8 describes the monoalcohols and at col.8, line 3 describes preferred R1 and this includes stearyl alcohol (*one of the reactants, namely alcohols for the formation of both the claimed species*). Patent at col.8, ll 37-68 describes the second component, which is diacid and at col.9, ll 5-15 describes the acids and this includes linoleic acid (*one of the reactants, namely acids for the formation of ethylenediamine/stearyl dimer dilinoleate copolymer*) and describes the preferred fatty acid as tall oil fatty acid *(one of the reactant, namely acids for the formation of ethylenediamine/stearyl dimer tallate copolymer).* Patent at col.9, ll 24-28 describes that polymerized fatty acids are sold under the trade name UNIDYME®. Patent at col.10, ll 18-36 describes exemplary diamines and the ethylenediamine ((*one of the reactants, namely amines for the formation of both the claimed species*) is the first

diamine described at line 20. Patent at col.12 through col.13, line 45 describes in detail the preparation of ETPA resins.

Patent '657 at col.14, lines 30-42 teaches that the polymer can be formulated into various personal care products. This includes deodorant, eye make-up, lipstick, foundation make-up, bay-oil, skin moisturizers, sun care products, lip balm, ethnic hair care products.

Patent '657 at col.17, ll 25-26 suggests adding ingredients that are conventionally incorporated into personal care products and suggests that gels which are formed from ETPA resin and low-polarity liquids can be combined with water, colorants, emulsifiers, and fillers and also teaches adding wax.

Patent '647 teaches adding emulsifiers also known as surfactants. The difference between the patent and instant application is patent '647 does not teach claimed oil soluble cationic surfactant.

However, patent '324 teach combining structurally related polyamide resins with surfactants, including cationic surfactants, for reducing susceptibility of the composition to syneresis, modifying viscosity and improving the texture of the composition. Patent at the paragraph bridging cols. 8-9 teaches that the composition can include blend of surfactants and patent at col. 10 teaches that in addition to non-ionic surfactants, cationic or anionic surfactants can be used. See col. 9, lines 1-5; col. 10, lines 46-52. The useful cationic surfactants include oil-soluble cationic surfactants such as quaternary ammonium compounds and fatty amines. Patent '324 teaches the advantages of using polyamide resin and blend of surfactants, which has the advantage of inhibiting hardening and loss of rub off availability. This loss of rub off availability is very popular among the consumer since these products are called" transfer resistant products".

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare compositions of by using the species belonging to ETPA of patent '657 that is formed from linoleic acid, stearyl alcohol and ethylenediamine and also the species formed form tall oil fatty acid, stearyl alcohol and ethylenediamine and combine with oil soluble cationic surfactant of patent '324. One of ordinary skill in the art would be motivated to combine polyamide gellant (species claimed) of '657 with cationic surfactants taught by patent '324 with the reasonable expectation of success that the compositions have the advantage of providing the consumer stable cosmetic products having structured property and gel property and when the polymer is combined with the cationic surfactants of patent '324 it has the additional advantage of inhibiting hardening and loss of rub off availability. This is a prima facie case of obviousness.

Response to Arguments

Applicant's arguments filed 10/1/09 have been fully considered but they are not persuasive.

Applicants' argue:

> *"The fact that a claimed species or subgenus is encompassed by a prior art genus is not sufficient by itself to establish a prima facie case of obviousness." M.P.E.P. §2144.08 (citing In re Baird, 16 F.3d 380, 382, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994) ("The fact that a claimed compound may be encompassed by a disclosed generic formula does not render the compound obvious."). While Pavlin discloses an ester-terminated polyamide (ETPA) of formula (I), there is no disclosure of the claimed*

species of structuring polymers, e.g., Uniclear, recited in claims 362-368. Moreover, there is no teaching or suggestion in Pavlin that would direct one of ordinary skill in the art to choose Uniclear rather than one of the other structuring polymers encompassed by formula (I). In fact, Pavlin would direct one of ordinary skill in the art away from Uniclear. Uniclear is derived from the condensation polymerization of: about 76.62 wt% of a dimer acid (Empol 1011), about 5.87 wt% of an amine (ethylene diamine), and about 17.51 wt% of an alcohol (Alfol-18, i.e., stearyl alcohol).1 See Information Relevant to the Use and Availability of UNICLEAR 80/100, attached herewith as Exhibit 1. From a review of Pavlin, the closest ester-terminated polyamide (ETPA) to Uniclear is Example 8. See Pavlin, col. 20, line 55 to col. 21, line 14. Example 8 is an ETPA derived from 76.4 wt% of the dimer acid Empol 1008, 5.9 wt% of ethylene diamine, and 19.7 wt% of stearyl alcohol. See id. Example 8, however, reports that gels formed from this Uniclear-like structurant made from 19.7 wt% stearyl alcohol were opaque, not clear. See id. at col. 21, lines 12-14. Further, Example 8 warns that "[t]his example shows that there is a lower limit to the alcohol concentration that can be used in an ETPA, and still obtain a transparent gel therefrom." See id. at col. 20, lines 60-62. In view of the fact that Uniclear is an ETPA that is derived from only about 17.51 wt% stearyl alcohol, it is below the lower limit taught by Pavlin for making clear gels. Accordingly, a person of ordinary skill in the art would have

been directed away from using Uniclear as the structuring polymer by this disclosure in Pavlin.

A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. See M.P.E.P. § 2141.02(VI). Indeed, the totality of the prior art must be considered, and proceeding contrary to accepted wisdom in the art is "strong evidence of unobviousness." In re Hedges, 783 F.2d 1038, 1041, 228 U.S.P.Q. 685, 687 (Fed. Cir. 1986). When the disclosure of Pavlin is considered in its entirety, as required, see M.P.E.P. § 2141.02(VI), a person would have been directed away from Uniclear by Pavlin teaching that a stearyl alcohol concentration of 19.7 wt% or below in an ETPA would form an undesirable opaque gel. This teaching away in Pavlin would have led one of ordinary skill in the art to other disclosed ETPA structuring polymers with a stearyl alcohol concentration of greater than 19.7 wt%. Thus, common sense would dictate against both selection and addition of Uniclear from among the other ETPA structuring polymer disclosed in Pavlin.

Murphy does not rectify the deficiencies of Pavlin discussed above. Thus, Applicants submit that the Examiner failed to establish a prima facie case of obviousness over Pavlin and Murphy ".

In response to the above argument, patent '657 admitted by applicants' under example 8, clearly teach species formed from ethylenediamine, stearyl alcohol and polymerized dimer acid.

Patent at col.8, line 51 teaches polymerized C36 dimer acid and this is the only exemplified polymerized dimer acid with carbon atoms. Patent at col.9, ll 9-10 teaches preferred acid which is tall oil fatty acids. Preferred mono alcohols include stearyl alcohol and cetyl alcohol at col.8, ll 6-8. Example 8 teaches ethylene diamine and thus one skilled in the art would prepare the claimed species from preferred reactants to form the ETPA resin which has gel like consistency. The claimed species is not picked from laundry list instead from preferred reactants and exemplified reactants (emphasis added). Example 8 might teach that the gel was hard, however table 12 also teaches that stearyl terminated polyamide forms clear gels. Accordingly, a person of ordinary skill in the art would have been motivated from using claimed species of '657 by using polymerized C36 dimer acid, ethylene diamine and terminated with stearyl alcohol.

> *In KSR, the Supreme Court stated that an invention may be found obvious if it would have been obvious to a person having ordinary skill to try a course of conduct:*
>
> *When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under § 103.*
> *KSR, 550 U.S. at 421.*

Therefore one of ordinary skill in the art would be motivated to prepare compositions by using the species belonging to ETPA of patent '657 that is formed from linoleic acid, stearyl alcohol and ethylenediamine and also the species formed form tall oil fatty acid, stearyl alcohol and ethylenediamine and combine with oil soluble cationic surfactant of patent '324. One of ordinary skill in the art would be motivated to combine polyamide gellant (species claimed) of '657 with cationic surfactants taught by patent '324 with the reasonable expectation of success

that the compositions have the advantage of providing the consumer stable cosmetic products having structured property and gel property and when the polymer is combined with the cationic surfactants of patent '324 it has the additional advantage of inhibiting hardening and loss of rub off availability.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30:1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EYLER YVONNE (BONNIE) can be reached on 571-272-0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JYOTHSNA A VENKAT /
Primary Examiner, Art Unit 1619